

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DWAYNE HASKINS,

Petitioner

v.

//

CIVIL ACTION NO. 1:07CV39
(Judge Keeley)

WARDEN GUITERREZ,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On March 15, 2007, pro se petitioner, Dwayne Haskins, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

In his petition, Haskins alleges that he has been in prison beyond the time period required for his placement in a Community Correction Center ("CCC") due to the Bureau of Prisons' ("BOP") miscalculation of his full term release date and projected release date. In its motion to dismiss, the respondent argues that the calculation of Haskins' sentence is correct pursuant to 18 U.S.C. § 3624(b) and 28 C.F.R. § 523.20 and that Haskins' failure to exhaust his administrative remedies bars him from bringing this habeas petition.

Magistrate Judge Seibert determined that Haskins' argument that he has been held in custody beyond his release date is

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incorrect and that his proffered calculation of his term of incarceration is not accurate because of sanctions for misconduct during his term of imprisonment that included the loss of 39 days or good conduct time. Furthermore, Magistrate Judge Seibert noted that the BOP website establishes that Haskins has already been transferred to a CCC and therefore his petition is moot.

On May 29, 2007, Magistrate Judge Seibert issued a Report and Recommendation recommending that the respondent's motion to dismiss be **GRANTED** and the petition be **DISMISSED** as moot. The Report and Recommendation also specifically warned that failure to object to the report and recommendation would result in the waiver of any appellate rights on this issue. Nevertheless, Haskins did not file any objections.¹

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety and **DENIES** the Petition for Writ of Habeas Corpus (docket no. 1), **GRANTS** the respondent's motion to dismiss (docket no. 9) and **ORDERS** the case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

¹ Haskins' failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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The Clerk is directed to mail a copy of this Order to the pro
se petitioner, via certified mail, return receipt requested, and to
transmit copies of this Order to counsel of record.

Dated: August 9, 2007

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE